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December 14, 2015

VIA EXPRESS MAIL
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Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Re: U.S. Trademark Application Serial No. 86/384,040 for FARMACY
Attorney Docket No. 143319.010300

Sir/Madam:

On November 23, 2015, a potential opposer, Fresh Farmacy, Inc. ("Fresh Farmacy"), filed a Request for a sixty-day extension of time to file a Notice of Opposition in the above-identified application. The Board has granted the foregoing Request by Fresh Farmacy, resetting the deadline to January 27, 2016.

Applicant and Fresh Farmacy have now entered into a Trademark Coexistence and Consent Agreement ("Agreement"), a copy of which is attached hereto. By Paragraphs 2 and 16 of this Agreement, Fresh Farmacy has agreed not to oppose registration of Applicant's FARMACY mark, which is the subject of the present application, U.S. Trademark Application No. 86/384,040. In such circumstances, Applicant requests that the Board "immediately forward the subject application for issuance of a . . . notice of allowance", rather than waiting for the expiration of the January 27, 2016 deadline. *See* TBMP §217.

If the Board has questions regarding this matter, please do not hesitate to contact the undersigned attorney. In the meantime, Applicant and its attorney appreciate and thank the Board for its anticipated cooperation.

Respectfully submitted,

GREENBERG TRAURIG


By: John K. Kim



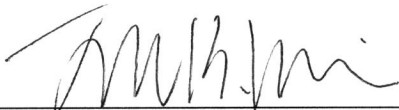
12-14-2015

U.S. Patent and Trademark Office #72

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Letter has been served on Fresh Pharmacy, Inc. by mailing said copy on December 14, 2015, to its attorney via email at info@AGTLAWPA.COM and via U.S. Postal Service Express Mail, postage prepaid, to the following address:

Antonio G. Tapia, Esq.
AGT LAW, P.A.
555 Winderley Place, Suite 300
Maitland, Florida 32751



By: John K. Kim

Instrument Prepared By:
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TRADEMARK COEXISTENCE AND CONSENT AGREEMENT

This Trademark Coexistence and Consent Agreement ("Agreement") is made as of the date last written below by and between Respect Nature, LLC, a New Jersey limited liability company with an address of 88 West Sheffield Avenue, Englewood, New Jersey 07631 ("Respect Nature") and Fresh Pharmacy, Inc., a Florida corporation with an address of 1280 Sydney Court, Altamonte Springs, Florida 32714 ("Fresh Pharmacy").

WHEREAS, Respect Nature has adopted the trademarks FARMACY, FARMACY CARE, FARMACY NATURE, and FARMACY BEAUTY (collectively, the "Respect Nature Marks") in connection with skin cleansers, body scrubs, moisturizing creams, moisturizing lotions, skin toners, eye creams, eye make-up removers, sun tan lotions, after sun creams and lotions, body creams, facial cleansers, facial moisturizers, spot removers, fragrances, hair care products, namely, shampoos and conditioners, beauty soaps, and body wash for humans;

WHEREAS, Respect Nature owns several pending U.S. Trademark Applications for the Respect Nature Marks, namely: Serial No. 86/384,040 for FARMACY; Serial No. 86/599,925 for FARMACY CARE; Serial No. 86/599,922 for FARMACY NATURE; and Serial No. 86/599,920 for FARMACY BEAUTY;

WHEREAS, Fresh Pharmacy has adopted the mark FRESH FARMACY (the "Fresh Pharmacy Mark") in connection with non-medicated skin care preparations, namely, natural bath and body products, gels, moisturizing creams, salts, lotions, cleansers, scrubs, toners, soaps, washes, haircare and fragrances;

WHEREAS, Fresh Pharmacy has used the Fresh Pharmacy Mark in consistent and continuous use in commerce at least as early as November 05, 2004;

WHEREAS, Fresh Pharmacy owns a pending U.S. Trademark Application for the Fresh Pharmacy Mark, namely, Serial No. 86/402,135; and U.S. Trademark Registration for a stylized design mark, namely, Registration No. 4,731,428;

WHEREAS, the parties have exchanged relevant facts, consulted legal counsel, and believe that the contemporaneous use of their respective marks for their respective goods, subject to the terms of this Agreement, will not cause confusion, cause mistake, or deceive;

WHEREAS, the parties wish to avoid any likelihood of confusion, dilution, or any possible conflict between their respective marks in the future;

AND WHEREAS, the parties are the most familiar with use in the marketplace and most interested in precluding confusion between their respective marks, hereby acting in good faith enter into this agreement pursuant and conforming to TMEP §1207.01(d)(viii) and designed to avoid any likelihood of confusion in the marketplace and by the relevant and subject consumer.

NOW, THEREFORE, for and in consideration of the above recitals, the mutual promises and undertakings set forth in this Agreement, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows:

DEFINITIONS

1. The term "Respect Nature" refers to Respect Nature, LLC, a New Jersey limited liability company with an address of 88 West Sheffield Avenue, Englewood, New Jersey 07631, and its related companies and licensees.

2. The term "Respect Nature Marks" refers to the marks FARMACY, FARMACY CARE, FARMACY NATURE and FARMACY BEAUTY.

3. The term "Respect Nature Applications" refers to U.S. Serial Nos. 86/384,040, 86/599,925, 86/599,922 and 86/599,920 for the Respect Nature Marks.

4. The term "Respect Nature Goods" refers to skin cleansers, body scrubs, moisturizing creams, moisturizing lotions, skin toners, eye creams, eye make-up removers, sun tan lotions, after sun creams and lotions, body creams, facial cleansers, facial moisturizers, spot removers, fragrances, hair care products, namely, shampoos and conditioners, beauty soaps, and body wash for humans, and any related goods and services.

5. The term "Fresh Farmacy" refers to Fresh Farmacy, Inc., a Florida corporation with an address of 1280 Sydney Court, Altamonte Springs, Florida 32714, and its related companies and licensees.

6. The term "Fresh Farmacy Mark" refers to the mark FRESH FARMACY.

7. The term "Fresh Farmacy Application" refers to U.S. Serial No. 86/402,135 for the Fresh Farmacy Mark.

8. The term "Fresh Farmacy Goods" refers to non-medicated skin care preparations, namely, natural bath and body products, gels, creams, salts, lotions, scrubs, and soap, and any related goods and services.

9. The term "register" refers to any action undertaken by a party to register a mark with the United States Patent and Trademark Office or with any of the states or territories of the United States, including filing a trademark application.

OBLIGATIONS OF/PERMITTED USES BY NATURE'S USE

10. Respect Nature may use the Respect Nature Marks in conjunction with any of the Respect Nature Goods.

11. Respect Nature shall not use or register, as a trademark or service mark, any phrase containing both of the terms "fresh" and "farmacy", including, but not limited to, the term "fresh farmacy". Respect Nature will not use or register the term "fresh farmacy" or any confusingly similar term, whether as a trademark or service mark or in a descriptive sense. Respect Nature may, however, use the term "fresh" or a similar term in conjunction with any of its Respect Nature Marks, provided that (a) such use is solely for describing the quality or the nature of its Respect Nature Goods and (b) the term "fresh" does not immediately proceed or follow the Respect Nature Marks.

12. Subject to the terms of this Agreement, Respect Nature consents to the use and registration of the Fresh Farmacy Mark as depicted in the Fresh Farmacy Application, and agrees not to challenge or oppose such use and/or registration, except on grounds of non-use. Respect Nature further agrees to sign, and/or deliver to Fresh Farmacy, any additional documentation reasonably necessary to obtain a registration from U.S. Serial No. 86/402,135. Fresh Farmacy shall be responsible for the costs associated with the preparation of such documentation, including any related attorneys' fees.

OBLIGATIONS OF/PERMITTED USES BY FRESH FARMACY

13. Fresh Farmacy may use the Fresh Farmacy Mark in conjunction with any of the Fresh Farmacy Goods.

14. Fresh Farmacy shall not use or register the term "farmacy" by itself, whether as a trademark or service mark or in a descriptive sense.

15. Fresh Farmacy shall not use or register, as a trademark or service mark, any phrase containing (a) the term "farmacy" and (b) any of the terms "care", "nature", or "beauty", including, but not limited to, the phrase "farmacy care", "farmacy nature" or "farmacy beauty". Fresh Farmacy shall not use or register any phrase containing the term "farmacy care", "farmacy beauty" or "farmacy nature" or any confusingly similar term, whether as a trademark or a service mark or in a descriptive sense. Fresh Farmacy may, however, use the term "care", "nature" or "beauty" or a similar term in conjunction with its Fresh Farmacy Mark, provided that (a) such use is solely for describing the quality or the nature of its Fresh Farmacy Goods and (b) the term "care", "nature" or "beauty" does not immediately proceed or follow the Fresh Farmacy Mark.

16. Subject to the terms of this Agreement, Fresh Farmacy consents to the use and registration of the Respect Nature Marks as depicted in the Respect Nature Applications, and agrees not to challenge or oppose the use and/or registration of the Respect Nature Marks, except on grounds of non-use. Fresh Farmacy further agrees to sign, and/or deliver to Respect Nature, any additional documentation reasonably necessary to obtain registrations from the Respect Nature Applications. Respect Nature shall be responsible for the costs associated with the preparation of such documentation, including any related attorneys' fees.

MISCELLANEOUS

17. The parties acknowledge and state that, to the best of their knowledge and belief, there is no likelihood of confusion arising as a result of their concurrent use of their respective marks and that this agreement meets the purpose and intent of TMEP 1207.01(d)(viii), specifically the consent between parties for the registration of their respective marks and the avoidance of likelihood of confusion in the marketplace. Requisite promises supra recite reasonable actions undertaken by each party to avoid likelihood of confusion and therefore this Agreement shall not be deemed a mere "naked" consent agreement.

18. The parties agree that they will not intentionally use their respective marks or promote their goods in connection with their respective marks in a manner that is likely to cause confusion. Neither party will suggest to any third party that an affiliation exists between itself and the other party or the other party's goods.

19. Each party agrees that, in the event they become aware of confusion between the Respect Nature Marks and the Fresh Farmacy Mark, they will promptly inform the other party and take all necessary steps to remedy that confusion.

20. The geographic scope of this Agreement shall be the United States and its territories.

21. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any of the parties.

22. This Agreement shall inure to the benefit of and shall be binding on the parties, their officers, directors, shareholders, partners, members, agents, representatives, servants, employees, licensees, franchisees, parent companies, subsidiaries, related and affiliated companies, successors and assigns and all entities operated and/or controlled by any of them or in active concert or participation with any of them.

23. This Agreement shall terminate in the event one or both of the parties discontinues use of their respective marks in connection with the above-identified goods and services for a period of more than three (3) years.

24. The failure of either party at any time or times to demand strict performance by the other party of any of the representations, promises, terms, or conditions of this Agreement shall not be construed as a continuing waiver or relinquishment thereof and each may at any time demand strict and complete performance by the other of said representations, promises, terms, and conditions. No waiver of any of the provisions of this Agreement shall be deemed to be or shall constitute a waiver of any other provision of this Agreement, whether or not similar. No waiver of any provision of this Agreement shall be binding unless executed in writing by the party making the waiver.

25. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements, whether written or oral, relating to such subject matter. This Agreement may not be altered, amended, modified, or otherwise changed in any respect except by an instrument in writing duly executed by authorized representatives of each of the parties hereto.

26. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforceability of the other provisions.

27. This Agreement may be executed in identical counterparts with the same force and effect as if the signatures were all set forth on a single instrument. This Agreement is deemed to be executed as of the last date on which a party signs a counterpart to this Agreement.

28. The Parties agree that every dispute or difference between them, arising under this Agreement, shall be settled first by a meeting of the Parties attempting to confer and resolve the dispute in a good faith manner. If the Parties cannot resolve their dispute after conferring, any Party may require the other Parties to submit the matter to nonbinding mediation, utilizing the services of an impartial professional mediator approved by all Parties. If the Parties cannot come to an agreement following mediation, the Parties agree to submit the matter to binding arbitration at a location mutually agreeable to the Parties. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of any such arbitration proceeding shall include the assessment of costs, expenses, and reasonable attorneys' fees and shall include a written record of the proceedings and a written determination of the arbitrators. Absent an agreement to the contrary, any such arbitration shall be conducted by an arbitrator experienced in intellectual property law. The Parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. In the event of any such dispute or difference, either Party may give to the other notice requiring that the matter be settled by arbitration. An award of arbitration may be confirmed in a court of competent jurisdiction. Should either Party dispute the arbitrator's decision, they may reject the award by commencing a trial de novo within 30 days after the award has been issued. In such circumstances, the arbitration award may not be used as evidence in the subsequent trial de novo.


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ACCEPTED AND AGREED:

RESPECT NATURE, LLC

By: 

Name: David Chung

Title: CEO

Date: 11/30/15

FRESH FARMACY, INC.

By: 

Name: Felita L. Nwaogwugwu

Title: President, Fresh Farmacy, Inc

Date: 12-3-15